

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
CEDAR RAPIDS DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JASON SCHMIDT,

Defendant.

No. CR07-0074-LRR

ORDER

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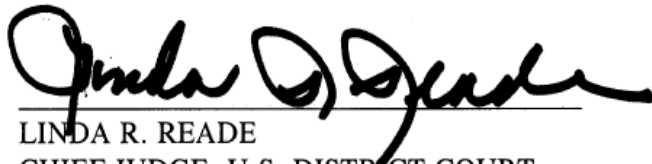
The matter before the court is the defendant's pro se notice of appeal by way of mandamus and motion to extend time (docket no. 67). The defendant filed such notice on November 29, 2007.

With respect to the instant notice of appeal, the defendant filed it shortly before electing to proceed through counsel. The defendant does not have a constitutional right to hybrid representation, that is, the defendant must choose either to proceed pro se or to utilize the full assistance of counsel who would present his defense. *See United States v. Swinney*, 970 F.2d 494, 498 (8th Cir. 1992); *see also United States v. Lewis*, 738 F.2d 916, 924 (8th Cir. 1984) (stating "[a] defendant in a criminal case does not have a constitutional right both to represent himself and to be represented by counsel" (citing *United States v. Olson*, 576 F.2d 1267, 1270 (8th Cir. 1978))); *United States v. Williams*, 534 F.2d 119, 123 (8th Cir. 1976) (stating "a criminal defendant has a right to represent himself or, alternatively, to be represented by counsel" (citing *Faretta v. California*, 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975))); *cf. United States v. Blum*, 65 F.3d 1436, 1443 n.2 (8th Cir. 1995) (noting it is Eighth Circuit policy to refuse to consider pro se filings when a party is represented by counsel (citing *Hoggard v. Purkett*, 29 F.3d 469,

472 (8th Cir. 1994))). Accordingly, the defendant's notice of appeal by way of mandamus and motion to extend time (docket no. 67) is stricken from the record. If counsel deems it appropriate to have this court or the Supreme Court address the defendant's notice of appeal, counsel is directed to resubmit it.

**IT IS SO ORDERED.**

**DATED** this 29th day of November, 2007.



LINDA R. READE  
CHIEF JUDGE, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF IOWA